

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Vanessa Armstrong, Administratrix of the Estate
of Brian Armstrong and m/n/f of Matthias Armstrong

v.

Civil No. 03-004-JM

Hillsborough County Department
of Corrections, et al.

O R D E R

Defendants have filed a "Partially Opposed Motion to Compel Disclosure of Terms/Documents of Plaintiffs' Settlement With C.M.S." Document no. 17. The motion seeks these documents from either plaintiff (to whom no Fed. R. Civ. P. 34 request has been made) and/or from Correctional Medical Service, Inc. ("CMS" is not a party to this action and has not been served with a subpoena under Fed. R. Civ. P. 45).

CMS is not a party nor is it before the court for failure to comply with a Rule 45 subpoena. While simplifying discovery is always admirable, doing so where the court lacks jurisdiction over an entity is not permitted. As to CMS, the motion (document no. 17) is denied.

Plaintiff is a party and has taken no position on the disclosure of the amount of her settlement with CMS. As to the

amount, the motion (document no. 17) is granted. It is denied without prejudice as to the settlement documents. Defendants may use either or both Rule 34 or 45 to first seek documents. Under either rule objections can logically lead to (1) agreement or (2) objection with a privilege log or request for protective order. At the least a motion to compel may proceed on less speculation with an opportunity for CMS to object and/or for in camera review.

The motion (document no. 17) is granted in part, denied in part and denied without prejudice in part.

SO ORDERED.

James R. Muirhead
United States Magistrate Judge

Date: September 9, 2004

cc: Francis G. Murphy, Jr., Esq.
John A. Curran, Esq.